

EXHIBIT D

1 THE HONORABLE JOHN C. COUGHENOUR
2
3
4
5
6
7
8

9
10 UNITED STATES DISTRICT COURT
11 FOR THE WESTERN DISTRICT OF WASHINGTON
12 AT SEATTLE

13 IN RE: VALVE ANTITRUST LITIGATION

14 Case No. 2:21-cv-00563-JCC

15
16 **PLAINTIFFS' NOTICE OF
17 FED. R. CIV. P. 30(B)(6)
18 DEPOSITION TO DEFENDANT
19 VALVE CORPORATION**

1 PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil
2 Procedure and applicable Local Civil Rules for the United States District Court for the Western
3 District of Washington, Plaintiffs Wolfire Games, LLC (“Wolfire”), Dark Catt Studios Holdings,
4 Inc., and Dark Catt Studios Interactive LLC (together, “Dark Catt,” and with Wolfire, “Plaintiffs”),
5 on behalf of the putative class, by and through their interim co-lead counsel, will take the
6 deposition of Defendant Valve Corporation (“Valve”), through its designated representative(s), on
7 the topics set forth in Schedule A at the offices of Fox Rothschild LLP in Seattle, Washington, on
8 September 29, 2023, commencing at 9 A.M., or at a time and place mutually agreeable to the
9 parties. In accordance with Fed. R. Civ. P. 30(b)(6), Valve shall designate one or more officers,
10 directors, managing agents, or other persons to testify on its behalf concerning the topics set forth
11 in Schedule A attached to this notice.

12 The deposition will continue from day to day until completed as provided in the Federal
13 Rules of Civil Procedure and the deposition protocol in this case, and shall be taken before an
14 officer, notary public, or other person duly authorized to administer oaths. Pursuant to Fed. R.
15 Civ. P. 30(b)(3), the testimony will be recorded by stenographic, audio, video, and/or real-time
16 stenographic means. Plaintiffs reserve all available rights to use Valve’s testimony in any such
17 means in connection with motions, hearings, trial, and/or other proceedings in this litigation.

18
19 Dated: August 23, 2023

20 s/ Ankur Kapoor

21 Ankur Kapoor
22 CONSTATINE CANNON LLP
23 335 Madison Avenue, 9th Floor
24 New York, NY 10017

SCHEDULE A

DEFINITIONS AND INSTRUCTIONS

1. "Person" or "Persons" includes without limitation individuals, corporations, partnerships, limited partnerships, unincorporated associations, and all other governmental and non-governmental entities.

2. "Publisher" means any Person that has created a PC game and/or has, directly or through an agent, contracted with anyone (including without limitation, Valve) to distribute a PC game. This definition includes what is ordinarily referred to as a "game developer."

3. "Valve Corp.," "You" or "Yours" refers to Defendant Valve Corp., and all its officers, directors, employees, affiliates, associates, agents, attorneys, subsidiaries, divisions, predecessors, successors, and all other Persons or entities acting or purporting to act on its behalf.

4. The terms "any," "all," "each," and "every" should be understood in either their most or least inclusive sense as necessary to bring within the scope of the notice that might otherwise be construed to be outside the scope.

5. The use of the singular form of any word includes the plural and vice versa.

6. The use of a verb in any tense includes the use of that verb in all other tenses.

Whenever a term is used herein in the present, past, future, subjunctive, or other tense, voice, or mood, it shall also be construed to include all other tenses, voices, or moods.

7. The use of the masculine or feminine form of any word when used in reference to any Person shall include any Person included in the definition of Person as set forth herein.

8. "And" or "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this notice all information that might otherwise be construed to be outside its scope.

9. Plaintiffs reserve the right to modify or supplement the terms or subjects in this notice.

10. Discovery is continuing as is Plaintiffs' investigation into the facts relating to the claims and defenses in this litigation. Plaintiffs reserve the right to serve additional notices on additional topic(s) within the allotted number of topics and hours pursuant to the agreed-to deposition protocol.

11. Unless otherwise defined herein, capitalized terms have the same meaning as when those terms and/or phrases were defined in the Second Amended Consolidated Class Action Complaint.

12. Unless otherwise indicated, the relevant time period for purposes of this notice is from January 1, 2003 to present.

TOPICS

1. Your organizational structure and how it has changed (if at all) over time, including the organizational structure of business units, departments, divisions, working groups, committees, “cabals,” and lines of business related to Steam or PC video games offered for sale or sold on Steam.

2. Your financial recording, reporting, accounting, and forecasting policies, practices, and/or procedures over time, including: (a) what You consider to be revenue, fixed costs, variable costs, and profits by businesses, business lines or units, and affiliated or related entities; (b) how You allocate revenues, fixed costs, variable costs, and profits among businesses, business lines or units, and affiliated or related entities; (c) the incremental costs of hosting a game on Steam, promoting a game on Steam, and processing payments on Steam; and (d) the Persons and/or groups involved in determining, carrying out, monitoring compliance with, and enforcing those policies, practices, and/or procedures.

3. The cost, profits and other financial data produced as part of Your Seventeenth Production of Documents, in response to Request for Production 68, including the methodology, sources and process involved in the preparation of that information for production, and the identity of the Persons and/or groups involved in preparing and approving the foregoing.

1 4. Your policies, practices, and/or procedures for compiling Your federal, state and
 2 international tax filings, including how You characterize Your revenues, costs, and profits
 3 related to Steam for purposes of those tax filings and Persons and/or groups involved in
 4 preparing the tax filings or determining, monitoring compliance with, and enforcing those
 5 policies, practices, and/or procedures.

6 5. The methodology, information, documents, processes, and Persons and/or
 7 groups involved in determining, approving or ratifying Steam commission rates or revenue
 8 sharing percentages over time, including rates and revenue sharing for in-game transactions, the
 9 origination of the rates and percentages, and Your business justifications for those rates and
 10 percentages.

11 6. Your policies, practices and/or procedures regarding Publisher pricing of PC
 12 video games or other content available for purchase on Steam over time, including the
 13 processes, documents and Persons and/or groups involved in determining, monitoring
 14 compliance with, and enforcing those policies, practices and/or procedures. For avoidance of
 15 doubt, this Topic includes Your policies, practices, and/or procedures regarding whether and
 16 how Publisher pricing of PC video games on other PC video game distribution platforms or
 17 channels should compare to pricing on Steam, and Your justifications and business reasons for
 18 those policies, practices, and/or procedures.

19 7. Your policies, practices, and/or procedures regarding the issuance, usage,
 20 termination, withholding or denial of Steam keys or alternatives to Steam keys over time,
 21 including the processes and Persons and/or groups involved in determining, monitoring
 22 compliance with, and enforcing those policies, practices, and/or procedures, and the
 23 justifications and business reasons for the terms Valve attaches to its Steam keys.

24 8. Your policies, practices, and/or procedures regarding the marketing and
 25 promotion of PC video games on the Steam platform over time, including (a) what types of
 26 data are collected, stored, and analyzed; (b) methods of discoverability of PC video games on
 27 the Steam platform; (c) Your criteria, policies, practices, and/or procedures for determining

1 whether or not a Publisher can participate in a Steam promotion; and (d) the Persons and/or
2 groups involved in determining, monitoring compliance with, and enforcing those policies,
3 practices, and/or procedures.

4 9. Your policies, practices, and/or procedures related to customer reviews on the
5 Steam platform over time, including the Persons and/or groups involved in determining,
6 monitoring compliance with, and enforcing those policies, practices, and/or procedures.

7 10. Your understanding of Valve's market share in the market for PC game
8 distribution and Valve's identification of the major competitors in the market for PC game
9 distribution and their market shares, including the Persons or groups involved with monitoring
10 and analyzing Your market share and major competitors and the identification of documents
11 bearing on Valve's understanding of its major competitors, their market share and Valve's
12 market share.

13 11. Your policies, practices, and/or procedures related to complaints received from
14 Publishers regarding Steam's commission rates, including the Persons or groups involved in
15 determining, monitoring compliance with, and enforcing those policies, practices, and/or
16 procedures.

17 12. The history, content, and interpretation of the Steamworks Documentation
18 regarding the pricing and distribution of PC video games on Steam and on other platforms or
19 channels, including Your business justifications for the Steamworks Documentation, the
20 process and Persons and/or groups involved with establishing or modifying the Steamworks
21 Documentation, the monitoring of and enforcement of compliance with the Steamworks
22 Documentation, and the rationales for changes to the Steamworks Documentation.

23 13. Requests You have received by Publishers for exceptions to, waivers of, or
24 variances from the Steamworks Documentation, including Your responses thereto, and Persons
25 and/or groups involved in evaluating, denying, or granting such requests.

1 14. Your ownership structure over time, including Your shareholders, bylaws,
 2 voting rights, and the distribution or sharing of profits to owners, shareholders, or other Persons
 3 or entities.

4 15. Your policies, practices, and/or procedures for curbing gambling, money
 5 laundering, data breaches, pornography, hate-speech and other inappropriate content, and
 6 consumer and/or Publisher fraud on Steam, over time, including the Persons or groups involved
 7 in determining, monitoring compliance with, and enforcing those policies, practices, and/or
 8 procedures.

9 16. Agreements with Publishers who pay or are charged commission rates not equal
 10 to Steam's standard commission rates for PC video games or in-game transactions, including
 11 any payments or charges that may be for other services from Valve, such as licensing of
 12 Valve's intellectual property, and the Persons or groups involved in negotiating and approving
 13 such agreements.

14 17. Meetings of Your board of directors and/or other meetings in which Your
 15 commission rates, policies, practices, and/or procedures related to Steam and/or PC video game
 16 distribution were discussed, considered, evaluated, or decided, and the reasons for same,
 17 including the Persons or groups involved in creating and/or maintaining the documentation or
 18 information presented to Your board of directors and the identification of such documentation
 19 and information.

20 18. Your document or data retention practices and policies in connection with this
 21 litigation (beginning with *Colvin v. Valve* and continuing to *Wolfire v. Valve* and *Dark Catt v.*
 22 *Valve*, up to the present) including whose and what documents were held for each Person and
 23 when, the effectiveness of such holds, the numbers and types of documents and data held for
 24 each Person, any known or suspected exceptions, deletions or failures to hold documents or
 25 data (whether intentional or inadvertent), and Your document and data retention policies and
 26 practices if any, over time, including the Persons or groups involved in creating, modifying,
 27 and/or enforcing those policies and the terms of same.